

# SDCERS

San Diego City Employees' Retirement System

David B. Wescoe  
Administrator/CEO

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COUNCILMEMBER  
DONNA FRYE

November 30, 2007

Councilmember Donna Frye  
The City of San Diego  
202 C Street, M.S. 10A  
San Diego, CA 92101

Dear Councilmember Frye:

Subject: "Inadequate Responses"

Your November 15 memorandum to me suggested that several of my communications with you on IRC Section 415(b) matters were "inadequate" or "less than forthcoming."

I have reviewed my prior correspondence with you and can confirm that each of my answers to you was accurate, then and now.

In my July 24 letter to Kevin Smith, responding to his July 19 email to me, I wrote that "*we won't know the number whose benefits exceed the 415(b) limits until the IRS approves SDCERS' testing methodology.*" That was accurate then, and it's still accurate today. Until the IRS issues its final approval on SDCERS' Voluntary Correction Program filings, all of the Section 415-related names and numbers are estimates based on a testing methodology that may or may not be approved by the IRS.

In my September 18 letter to you responding to your September 10 memorandum, I wrote "*As for City retirees, my July 18 and July 24 letters to Kevin Smith accurately indicated that SDCERS did not know which retirees were in excess of 415 limits because the IRS had not given its necessary guidance on this matter.*" That was accurate then, and it's still accurate today. Again, until we receive final IRS approval of our 415 testing methodology, all of our calculations are estimates.

As for Bob Wilson's February 7 staff report to the SDCERS Board, Bob said "*As of February 7, 2007, a total of 18 retirees*" were projected to receive benefits in excess of 415(b) limits during calendar 2007, and recommended the City plan "*a total of \$639,962 in POB funding.*" Bob's projections, which were prepared for budgeting purposes, were based upon a preliminary testing methodology that was submitted to, but not yet approved, by the IRS.

Indeed, the number of names and amounts involved has fluctuated since Bob's staff report because estimates are being calculated using revised testing methodologies following discussions with the IRS. **Only when SDCERS receives final IRS approval on a specific Section 415 testing methodology will we be able to confirm with precision the members and amounts involved.**

On a more personal note, I was disappointed with the tone of your memorandum. Since the day I started at SDCERS, I have been completely open and forthright with you. I have been in your office more often, and I have provided more accurate and timely information to you and your Council colleagues, than was ever provided to you before I arrived. You will continue to have my commitment to provide pertinent and accurate information to you.

Sincerely,



David B. Wescoe

cc: Honorable Mayor and Members of the City Council  
SDCERS Board of Administration  
Andrea Tevlin  
Stanley Keller